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EXAMINER

AVELLINO, JOSEPH E

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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DETAILED ACTION

1. Claims 1-4 and 6-22 are pending in this examination; claims 1, 6, and 10 independent.

Specification

2. The Examiner requests Applicant's assistance in the correction of any typographical errors Applicant may find in the specification.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, and 6-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spyglass Prism (Concepts and Applications: Spyglass Prism, 1997) (hereinafter Spyglass) in view of Fox et al. ("Reducing WWW Latency and Bandwidth Requirements by Real-Time Distillation"; Computer Networks and ISDN Systems; ACM; May, 1996) (hereinafter Fox) and further in view of Himmel (USPN 6,167,441) in view of Marmor (US 2002/0026475).

3. Referring to claim 1, Spyglass discloses an image-correction processing apparatus (i.e. proxy server application) in an image sending system that sends an image to a destination terminal via a network (page 2, Figure), comprising:

terminal information acquiring means for acquiring a destination terminal information about the destination terminal (“a user...may be asked to enter a services of conversion preferences that are stored in the User Database...the Device database contains content conversion characteristics for any set of devices that Spyglass Prism may be asked to support” such as screen dimensions, resolution, colors supported, format, etc.) (page 4, ‘Transaction Manager’ section);

send-out image generating means for generating a send-out image by performing an image correcting process, which corresponds to a model of the destination terminal, based on the destination terminal information (i.e. based on the device type of the requesting terminal, specific content conversion characteristics are conducted on the image to create a modified image) (page 4, ‘Transaction Manager’ section; page 5, ‘Content Converter and Cache’ section: “Based on the request passed from the Transaction Manager, Spyglass Prism’s Content Converter selects a set of conversion rules that define how Web content will be translated to provide optimal viewing on the requesting device...for example, an image conversion script...may convert images to GIF, reduce the color depth, reformat the image for a 240x480 pixel display”).

Spyglass further discloses the send-out image generating means includes storing an image-correction parameter (i.e. user database to track user preferences as well as design custom conversion routines) (p. 2-3: ‘introduction’ and ‘Spyglass prism product overview’); means for setting image correction parameter according to destination terminal information (i.e. a script for a handheld PDA may convert images to GIF,

reduce color depth, reformat the image, etc.) (p. 5: 'Content converter and Cache'); means for converting a number of pixels constituting an image to be appropriate for a display screen size of a destination terminal (i.e. reformat the image for a 240x480 pixel display) (p. 5: 'Content converter and Cache'); means for correcting the send-out image based on a first correction process (i.e. conversion rules convert the image to conform with the display capabilities of the device) (p. 5: 'Content converter and Cache'); and content converter rules for reducing color depth, JPEG-GIF conversion, size reduction, dithering, etc. all which are tailorable to the user and the user's display device (p. 5: 'Content converter and Cache').

Spyglass does not explicitly state the use of a first class of devices pertaining to a first correction process and a second class of devices pertaining to a second correction process. In analogous art, Fox discloses another image correction process for devices which discloses a chart in which various classes of devices and their display capabilities are shown (page 5). It would have been obvious to one of ordinary skill in the art to combine the teaching of Fox with Spyglass in order to utilize the particular chart used in Fox with the device database disclosed in Spyglass, thereby providing enough data for the system to correct an image in order to conform with the operating and display capabilities of the various devices.

Fox-Spyglass do not expressly disclose requesting from the destination terminal device the destination terminal information about the destination terminal and receiving the information from the destination terminal upon the receipt of an image to be converted. In analogous art, Himmel discloses another image conversion system which

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discloses sending a request to a destination terminal for capabilities information to be used to convert incoming images (i.e. Figure 6, "choose image which looks the best", and what type of computer is the destination device). Although Himmel does not expressly disclose that the query is done in response to receiving an image, one of ordinary skill in the art would easily of made this modification as a simple programming choice. It would have been obvious to one of ordinary skill in the art to combine the teaching of Himmel with Fox-Spyglass in order to provide an efficient method to determine the device type which is receiving the image and customize the images for a variety of devices as supported by Himmel (col. 2, lines 20-25).

Fox-Spyglass-Himmel does not explicitly disclose that the converter queries the receiver for destination terminal information, rather the destination terminal information is stored in the gateway and no querying is done. In analogous art, Marmor discloses another alternative to storing the client's configuration in the converter is to query the destination terminal for the client's capabilities (§ 28, 103). It would have been obvious to one of ordinary skill in the art to combine the teaching of Marmor with Fox-Spyglass-Himmel to query the client destination terminal instead of storing the various configuration capabilities in the server of Spyglass in order to compensate for users whose devices change often (i.e. accessing an account from both a home PC and a PDA, which have differing capabilities), resulting in reduced memory storage requirements for the server as well as increased flexibility for supporting different devices.

4. Referring to claim 2, Spyglass discloses the send-out image generating means includes:

first image-correction processing means for performing an image correcting process according to each image for a pre-sending image, and a second-image correction processing means for performing an image correcting process which is respectively appropriate for each model of the destination terminal after the image correcting process performed by the first image-correction processing means (i.e. the example shows a script which reduces the color depth, which is an image correcting process according to the image, and then reformat the image for a 240,480 pixel display, which is a correcting process appropriate for the model of the destination terminal) (page 5, 'Content Converter and Cache' section, second paragraph).

5. Referring to claim 3, Spyglass discloses an image-correction parameter storing means (i.e. Device Database) for storing image-correction parameters (i.e. device types) of each model of the destination terminal (i.e. "reformat the image for a 240x480 pixel display") (page 4, 'Transaction Manager' section; page 5, 'Content Converter and Cache' section); and

image-correction parameter setting means for setting an image-correction parameter used for the image correcting process (i.e. device database contains content conversion characteristics for any set of devices...) (page 4, 'Transaction Manager' section).

6. Referring to claim 4, Spyglass discloses the terminal information acquiring means acquires the destination terminal information from the destination terminal (i.e. user is asked to enter a series of conversion preferences and the Device Database information) (page 4, 'Transaction Manager' section); and

the image-correction parameter setting means selects an image-correction parameter corresponding to a destination terminal information (i.e. Device database contains content conversion characteristics for any set of devices) (page 4, 'Transaction Manager' section).

7. Claims 6-10 are rejected for similar reasons as stated above.

8. Referring to claim 11, Spyglass-Fox discloses that the first class of computers is a PC (Fox: page 5, note 'Typical notebook/desktop PC').

9. Referring to claim 12, Spyglass-Fox discloses the invention as described above. Spyglass-Fox does not explicitly disclose the use of a cellular phone, rather just discloses the use of PDA's and notebook/desktop PC's, however the ability for cellular phones to display images is well known and a cellular network has a lower bandwidth than a typical wired network. By this rationale, "Official Notice" is taken that both the concepts and advantages of providing for display capabilities of cellular phones is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to realize the benefits of incorporating cellular phones in the device database in

order to increase the user's ability to access images over a cellular phone and a cellular network quickly and expeditiously.

10. Referring to claims 13 and 14, Spyglass-Fox do not explicitly disclose the use of if the device belongs to a particular third class of device (a cellular phone), convert the image to JPEG, however, as explained in connection with claim 12, the use of cellular phones is well known in the art, and Spyglass discloses conversion of an image to JPEG (p. 5: 'Content converter and Cache'), one of ordinary skill in the art would be able to configure the system to convert the image to JPEG when the device is a particular cellular phone which can only receive JPEG images.

11. Claims 15-22 are rejected for similar reasons as stated above.

Response to Arguments

12. Applicant's arguments filed August 4, 2008 have been fully considered but they are moot in view of the new grounds of rejection presented above.

13. Applicant's arguments with respect to the "Official Notice" have been considered but are not persuasive. Contrary to Applicant's belief, the Examiner is not relying upon "common knowledge in the art", rather, since Applicant has failed to seasonably traverse the Examiner's assertions, this failure to seasonably traverse these assertions

have been taken as Applicant's Admitted Prior Art. Applicant is invited to review MPEP 2144.03: which states:

"If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate."

14. Applicant has had an opportunity to traverse these assertions and has failed to do so. Under MPEP 2144.03, this has been taken as Admitted Prior Art for the duration of prosecution.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Applicant has failed to seasonably challenge the Examiner's assertions of well known subject matter in the previous Office action(s) pursuant to the requirements set forth under MPEP §2144.03. A "seasonable challenge" is an explicit demand for evidence set forth by Applicant in the next response. Accordingly, the claim limitations the Examiner considered as "well known" in the first Office action are now established as admitted prior art of record for the course of the prosecution. See *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey C. Pwu can be reached on (571)272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph E. Avellino/
Primary Examiner, Art Unit 2446